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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Beehive Telephone Company, Inc.
Beehive Telephone, Inc. Nevada

Tariff F.C.C. No. 1

)
) CC Docket No. 97-237
)
)
) Transmittal No. 6
)**ORDER DESIGNATING ISSUES FOR INVESTIGATION****Adopted: December 2, 1997****Released: December 2, 1997**Filing Schedule

Direct Case: December 12, 1997

Opposition or Comments: December 19, 1997

Rebuttal: December 29, 1997

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On July 22, 1997, Beehive Telephone Company, Inc. and Beehive Telephone, Inc. of Nevada (collectively "Beehive") filed Transmittal No. 6, which proposes to revise the rates in Beehive's 1997 biennial access tariff and to change the terms and conditions applicable to its provision of interstate access service.¹ On July 29, 1997, AT&T Corp. (AT&T) filed a petition urging the Commission to reject, or alternatively, to suspend and investigate Beehive Transmittal No. 6.² On August 4, 1997, Beehive filed a response in opposition to AT&T's petition against its transmittal.³ On August 5, 1997, the Competitive Pricing Division (Division) of the Common Carrier Bureau (Bureau) released the *Beehive Tariff Suspension Order*, in which it concluded that Beehive's transmittal raised significant questions of lawfulness.⁴ The Division suspended Beehive's Transmittal No. 6 for one day, initiated an investigation, imposed an accounting order, and noted that an order designating issues for investigation would be

¹ Beehive Access Tariff FCC No. 1, Transmittal No. 6 (July 22, 1997) (Transmittal No. 6).

² AT&T Petition to Suspend and Investigate and for Rejection of Beehive Transmittal No. 6 ("AT&T Petition").

³ Beehive Reply to AT&T's Petition to Suspend and Investigate and for Rejection ("Beehive Reply").

⁴ *Beehive Telephone Company, Inc., Tariff F.C.C. No. 1, Transmittal No. 6, Suspension Order*, DA 97-1674, (Com. Car. Bur., Comp. Pric. Div., rel. August 5, 1997) (*Beehive Tariff Suspension Order*).

forthcoming.⁵ Accordingly, in this Order, we designate one issue for investigation regarding Beehive's Transmittal No. 6.

II. TRANSMITTAL AND PLEADINGS SUMMARY

A. Beehive Transmittal No. 6

2. Beehive's first filing under Transmittal No. 6 proposes to revise its 1997 biennial access tariff as required by Section 69.3(f) of the Commission's rules.⁶ The major changes proposed in Beehive's second filing under Transmittal No. 6 were to the terms and conditions under which Beehive offers switched access transport services.⁷ Both tariff filings were scheduled to become effective on August 6, 1997. The *Beehive Tariff Suspension Order* suspended all of Transmittal No. 6.

B. AT&T's Petition

3. AT&T notes that Beehive's Transmittal No. 6 proposes to increase its premium local switching rate from \$0.0348 to \$0.0401 per minute of use (MOU).⁸ AT&T contends that it is unclear whether Beehive's proposed rate revision complies with the Commission's prescribed rate of return given Beehive's current rate levels.⁹

C. Beehive's Reply

4. In reply, Beehive contends that AT&T has failed to demonstrate that its tariff should be suspended and investigated as required by Section 1.773(a)(1) of the Commission's rules.¹⁰ With respect to AT&T's argument that its proposed increase in premium switching rates is unlawful, Beehive states that the proposed rate increase will be more than offset by the proposed reduction in its premium local transport charges and the proposed decrease in its aggregate rate.¹¹ Beehive also asserts that the proposed increase in its switching rate is fully justified by increases in its interstate usage and expense levels.¹²

⁵ *Id.*

⁶ 47 C.F.R. § 69.3(f). This rule states that small telephone companies may file access tariffs for a "biennial period with a minimum of 90 days notice and a scheduled effective date of July 1 of any odd numbered year." On July 3 1997, Beehive filed, among other things, a request for waiver of Section 69.3(f) of the Commission's rules in order to file its biennial access tariff revisions with an effective date other than July 1, 1997. The Division granted Beehive's waiver request and assigned Special Permission No. 97-218.

⁷ The rate revisions in Transmittal No. 6 were made pursuant to Special Permission No. 97-223.

⁸ AT&T Petition at 3.

⁹ *Id.* at 3-4.

¹⁰ Beehive Reply at 4, *citing* 47 C.F.R. § 1.773(a)(1).

¹¹ *Id.* at 6-7.

¹² *Id.* at 7.

III. ISSUE DESIGNATED FOR INVESTIGATION

5. The *Beehive Tariff Suspension Order* concluded that Transmittal No. 6 raises significant questions of lawfulness, including: whether the tariff was unreasonably discriminatory in violation of Section 202(a) of the Communications Act of 1934, as amended (Act);¹³ whether it contained any unjust and unreasonable charge, practice, classification, or regulation in violation of Section 201(b) of the Act;¹⁴ and whether Beehive has shown that its proposed rate levels for traffic sensitive switched access are justified under existing rules governing its interstate access charges.¹⁵ As set forth below, we now designate in greater detail the following issue to be investigated with respect to Beehive's Transmittal No. 6.

Issue : Whether Beehive's traffic sensitive local switching rate is based on its interstate cost of service for the period since its last annual filing and related demand for the same period.

6. Companies that qualify as small telephone companies¹⁶ and elect to file under the small telephone company rules are subject to Section 61.39 of the rules.¹⁷ This rule provides an option for smaller local exchange carriers (LECs) to base their traffic sensitive access rates for the first filing under Section 61.39 on the carriers' cost of service for the most recent twelve month period with related demand for the same period. Subsequent annual access filings are based on the carriers' cost of service and related demand for the historical period since the last annual filing.¹⁸ Beehive's last annual access tariff became effective on July 1, 1995, and the rates assessed in its filing were based on its cost of service and related demand for the 12 month period ending December 31, 1994. Therefore, in accordance with Section 61.39 of the Commission's rules, Beehive's local switching rate in its 1997 annual access filing should be based on total costs of service and related demand for calendar years 1995 and 1996.¹⁹ In response to AT&T's request that Beehive submit additional cost and demand data supporting its 1997 interstate annual access filing, Beehive provided limited cost information, but failed to include for the 1995-96 period: (1) the change in unseparated revenue requirement; (2) the Dial Equipment Minutes (DEM) allocator²⁰ used to

¹³ *Beehive Tariff Suspension Order* at para. 6.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Small telephone companies are defined as those carriers with fewer than 50,000 access lines that also are part of National Exchange Carrier Association (NECA) Subset 3, as defined by Section 69.602(a)(3) of the rules, 47 C.F.R. § 69.602(a)(3). See *Regulation of Small Telephone Companies*, Report and Order, CC Docket No. 86-467, 2 FCC Rcd 3811 (1987).

¹⁷ 47 C.F.R. § 61.39.

¹⁸ 47 C.F.R. § 61.39(b)(1)(ii).

¹⁹ *Id.*

²⁰ Part 36 of the Commission's jurisdictional separations rules allocates investment costs of local switching equipment between the interstate and intrastate jurisdictions by the use of Dial Equipment Minutes (DEM). Dial Equipment Minutes are the minutes of holding time of the originating and terminating local dial switching equipment

separate local switching costs between state and interstate jurisdictions; and (3) state and interstate demand.²¹

7. Because Beehive failed to provide complete cost data for 1995 and 1996, we are unable to determine whether its proposed local switching rate for 1997/98 is reasonable. In order to evaluate the reasonableness of Beehive's rates in light of historical cost and demand trends, we direct Beehive to provide detailed cost data for calendar years 1994, 1995, and 1996 in the format described in the next paragraph. Specifically, Beehive should provide all investment, expense, and revenue account balances that it is required to keep as a Class B company under Part 32 of the Commission's rules;²² show all of the interstate and intrastate amounts for each of the cost categories in Part 36 of the rules;²³ show the amounts in each of the access charge categories in Part 69 of the rules; and show the development of the revenue requirement for the local switching category for the local switching rate.²⁴ Beehive should also provide an explanation supporting its calculation of demand and the DEM allocator, including separate interstate and state MOU for each year; and an explanation and data supporting any changes in costs and demand from year to year. We note that pursuant to Section 61.39(c) of the rules, the Commission may require LECs to submit information of the type identified above where it deems such information necessary to monitor carriers' earnings.²⁵

8. Accordingly, we direct Beehive to complete Table 1 of FCC Armis Report 43-01, as modified, for calendar years 1994, 1995, and 1996. Specifically, Beehive must submit in this form all accounting data and any additional information necessary to calculate the revenue requirement for total company, total interstate access, regulated interstate access, total common line, local switching, switched traffic sensitive, and special access. We also direct Beehive to submit Table 1 of FCC Armis Report 43-01, as modified, showing their July 1, 1997 revenue requirement based on their 1995 and 1996 actual costs. We will provide Beehive with a 3.5-inch high-density disk containing a Lotus 123 version 3 file of Table 1 of FCC Armis Report 43-01. Beehive should file the computer disk electronically at the time it files its direct case. Pursuant to Section 204(a)(1) of the Act and the Commission's rules,²⁶ Beehive's provision of the information requested is necessary to determine whether the proposed rates are just and

(i.e., the time local switching equipment is in actual use either by a customer or an operator), and the DEM factor for allocating local switching equipment cost to interstate service is the ratio (expressed as a percentage) of interstate minutes of use to the total minutes of use. See Section 36.125(b) of the Commission's Rules, 47 C.F.R. § 36.125(b).

²¹ Cost Support for Beehive's 1997 interstate annual filing (filed August 27, 1997).

²² Part 32 of the Commission's rules contains the Uniform System of Accounts (USOA) for telecommunications companies, which is a historical financial accounting system companies adhere to in booking their various accounts. The USOA is comprised of different accounts, to which companies book associated costs. 47 C.F.R. Part 32.

²³ Part 36 of the Commission's rules outlines the separations procedures for telecommunications companies that apply to property costs, revenues, expenses, taxes and reserves as recorded on the books of the company. 47 C.F.R. Part 36.

²⁴ Part 69 of the Commission's rules establishes rules for access charges for interstate or foreign access services provided by telephone companies on or after January 1, 1984. 47 C.F.R. Part 69.

²⁵ 47 C.F.R. § 61.39(c).

²⁶ 47 U.S.C. § 204(a)(1).

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reasonable. Failure to provide this information may result in the prescription of rates that are just and reasonable.

IV. PROCEDURAL MATTERS

A. Filing Schedules

9. This investigation will be conducted as a notice and comment proceeding to which the procedures set forth below shall apply. Beehive shall file a direct case addressing each issue designated above no later than 15 days after release of this Order.

10. Pleadings responding to the direct cases may be filed no later than 7 days after filing of the direct case and must be captioned "Opposition to Direct Case" or "Comment to the Direct Case." "Rebuttals" to the opposition or comments may be filed no later than 7 days after the filing of comments on or opposition to the direct case.

11. An original and seven copies of all pleadings must be filed with the Secretary of the Commission. In addition, one copy must be delivered to the Commission's commercial copying firm, International Transcription Service, Room 246, 1919 M Street, N.W., Washington, D.C. 20554. Also, one copy must be delivered to the Competitive Pricing Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554. Member of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Such comments should specify the docket number of this investigation.

B. *Ex Parte* Requirements

12. This proceeding is designated permit but disclose for purposes of the Commission's *ex parte* rules. *Ex parte* contacts, (i.e., written or oral communications that address the procedural or substantive merits of the proceeding and are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until the commencement of the Sunshine Agenda period. The Sunshine Agenda period terminates when a final order is released and the final order is issued. Written *ex parte* contacts and memoranda summarizing oral *ex parte* contacts must be filed on the day of the presentation with the Secretary and Commission employees receiving each presentation. For other requirements, see generally Section 1.1200 *et seq.* of the Commission's Rules, 47 C.F.R. §§ 1.1200 *et seq.*

V. ORDERING CLAUSES

13. IT IS ORDERED, that pursuant to Sections 4(i), 201(b), 202(a), 204, and 205 of the Communications Act, 47 U.S.C. §§ 154(i), 201(b), 202(a), 204 and 205, and Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

14. IT IS FURTHER ORDERED that the Beehive Telephone Company, Inc. SHALL BE A PARTY TO THIS PROCEEDING.

15. IT IS FURTHER ORDERED THAT the Beehive Telephone Company, Inc. SHALL FILE a direct case addressing each issue designated above no later than 15 calendar days after the release of this Order.

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16. IT IS FURTHER ORDERED that Pleadings responding to the direct cases SHALL BE FILED no later than 7 calendar days after filing the direct case and must be captioned "Opposition to Direct Case" or "Comment to the Direct Case."

17. IT IS FURTHER ORDERED that "Rebuttals" to the opposition or comments may be filed no later than 7 calendar days after the filing of comments or opposition to the direct case.

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A handwritten signature in black ink, appearing to read "A. Richard Metzger, Jr.", followed by a horizontal line.

A. Richard Metzger, Jr.
Chief, Common Carrier Bureau